

1 | if -- you know, generally my -- you know, that's my feeling
2 | with respect to at least -- for that whole section B-1.

3 | MR. HONIG: I have a few other more specific
4 | objections and of course will want to preserve --

5 | JUDGE STEINBERG: Of course.

6 | MR. HONIG: -- the other ones for the record. But
7 | bearing that in mind, the first sentence then, your -- of 3,
8 | your ruling is that the, the objection is overruled?

9 | JUDGE STEINBERG: Correct.

10 | MR. HONIG: Okay. Now, I have no objection then
11 | subject to your impression of it as background as to the
12 | second sentence of paragraph 3. I do have an objection to the
13 | third sentence of paragraph 3, well, I may. But I would like
14 | to get a clarification.

15 | JUDGE STEINBERG: Which one? The spotless record
16 | sentence?

17 | MR. HONIG: Yeah. Is that offered as the witness's
18 | opinion or is it offered for the truth of the matter asserted?

19 | MS. SCHMELTZER: It's offered for the truth of the
20 | matter asserted, Your Honor. The stations have never had a
21 | problem with the FCC. You can take official notice of the
22 | fact.

23 | MR. HONIG: Your Honor, it's not proper for official
24 | notice without, without the best evidence of that which is a
25 | search -- the products of a search of the Commission's records

1 | which apparently as this station predate the birth of this
2 | witness.

3 | JUDGE STEINBERG: Okay. Let me, let me leave it
4 | this way. The statement is in the record. I would have
5 | expected if this statement was being challenged that the
6 | challenge would have come in in a rebuttal exhibit. There
7 | being no rebuttal exhibit addressed to this matter, the
8 | statement is being left the way it is.

9 | MR. HONIG: Your Honor --

10 | JUDGE STEINBERG: If you want to cross-examine this
11 | witness on this sentence you may. It's basically they, they
12 | made the statement and it's being offered for the truth of the
13 | matters asserted, if you think it's not truthful or if you
14 | think it's not accurate, the burden is on you to show that and
15 | through your rebuttal.

16 | MR. HONIG: If I, if I could, Your Honor, in order
17 | to, to have done this in a rebuttal exhibit, it would have
18 | been necessary to make a search of archives which takes two
19 | weeks.

20 | JUDGE STEINBERG: Mr. Honig, you have my ruling. We
21 | established the rebuttal date months ago. You've had this
22 | exhibit since June 1st and I'm not going to accept that as, as
23 | an excuse. We're also going to establish a rule for the
24 | remainder of this hearing. You will state your objection, I
25 | will hear a response to that, if I want to I will rule, at

1 that point the matter ends, there will be no reargument of it.

2 Is that understood?

3 MR. HONIG: Yes.

4 JUDGE STEINBERG: Okay. So, state your next -- if,
5 if your objection -- you had an objection to that sentence and
6 the objection was overruled, now state your next objection,
7 please.

8 MR. HONIG: Well, first let me give a global
9 objection to paragraphs 4 through 15 based on, on relevance.
10 And, and understanding your ruling I'm just --

11 JUDGE STEINBERG: No, I appreciate that and I know
12 you've got to state your objection for the record otherwise
13 it's waived and, you know, and I know you have to do it. And
14 I'm going to overrule your objection for the reasons that I
15 stated earlier and this came up in Dr. Bohlman's exhibit and
16 for the reasons I stated there also, if they, if they were
17 different.

18 MR. HONIG: I have an additional relevance objection
19 to paragraph 7 in that it doesn't state specific factual
20 background about the church and its relations with, with the
21 stations and so on. This paragraph speaks to particular
22 programs on the church during a period preceding --

23 JUDGE STEINBERG: Okay. I think -- you sure it's
24 paragraph 7?

25 MR. HONIG: Paragraph 7.

1 JUDGE STEINBERG: Okay. That talks about the radio
2 choir.

3 MR. HONIG: And performances and I think that's
4 different from the rest --

5 JUDGE STEINBERG: Okay. During the license period?
6 Okay. I, I think that's also part of the background of the,
7 of the church and what the, what -- the radio stations place
8 in the church, etc. That's the way I view it. Believe me,
9 the case is not going to turn on whether or not something did
10 or did not happen with the radio choir.

11 MR. HONIG: I also have to object to paragraph --

12 JUDGE STEINBERG: Or -- well, no, I won't -- I'll
13 just -- forget the or. I'll, I'll strike the or and just
14 leave it where it was.

15 MR. HONIG: I also have to object to paragraph 8
16 based on Section 304 of the Act, the same objection I stated
17 yesterday.

18 JUDGE STEINBERG: Okay. That's, that's overruled
19 and that's the squatter's right objection?

20 MR. HONIG: That's right.

21 JUDGE STEINBERG: Okay, and the ruling is the same
22 for the reasons I said when I dealt with it the first time.

23 MR. HONIG: I'd like to object to paragraph 18
24 unless it's clarified that this is a statement of belief and
25 not of the substantive truth of the matters believed.

1 JUDGE STEINBERG: Okay. I don't think that's a
2 well-founded objection because in both, in both sentences --
3 in the first two sentences they contain the words "I believed,
4 I believed," and so it is belief. So, to the extent it's --
5 basically, your objection has been taken care of by the
6 language of the paragraphs and then, and then it goes on to
7 give the basis for the beliefs. So, it's, it's overruled
8 because it's --

9 MR. HONIG: I also have to object to 18-A for the
10 reasons stated yesterday regarding testimony about the
11 competence and responsibility and the good character of, of
12 subordinates.

13 JUDGE STEINBERG: Well, these were his beliefs and
14 you can test his beliefs. They may be well founded and they
15 may not be well founded, but nevertheless, this is what he
16 testified that he believed.

17 MR. HONIG: On, on page 11 I object to the first
18 sentence because it's not, it's not proper to write testimony
19 if it's -- it doesn't relate to his beliefs about KFUD's
20 practices, it related to his beliefs about nonparties' beliefs
21 and as such is not the type of belief which -- or opinion
22 which belongs in the record and to which findings can be made
23 or cross-examination should be had, it's irrelevant.

24 JUDGE STEINBERG: Mrs. Schmeltzer?

25 MS. SCHMELTZER: Well, Your Honor, one of the issues

1 in this case is discrimination. This is something that the
2 Commission didn't designate but Mr. Honig brought it up and,
3 and then an issue was added and I, I think that his feelings
4 about this whole matter are important and I think that this
5 sentence is integral to the whole paragraph and should also
6 come in for that reason.

7 JUDGE STEINBERG: Ms. Laden?

8 MS. LADEN: I think it's irrelevant, Your Honor.

9 JUDGE STEINBERG: I'm going to, I'm going to leave
10 it in solely for state-of-mind purposes. And again, I'll,
11 I'll -- I will assure you that if favorable conclusions are
12 reached with respect to the church it won't be because
13 Reverend Devantier is saddened by your allegations, it will be
14 because of what the objective facts show in my opinion.

15 MR. HONIG: I have a further objection to paragraph
16 -- to, to the remainder of paragraph 20 in, in that again I
17 want to be sure that if this is offered for anything other
18 than opinion it doesn't belong in. I understand your ruling
19 that if it's opinion it goes in and it appears to be opinion.

20 JUDGE STEINBERG: The whole thing -- I view the
21 whole paragraph as state of mind.

22 MR. HONIG: And finally, I have the same objection
23 to the last clause of the last sentence of paragraph 20 in
24 that the intention of the witness regarding offending
25 nonparties isn't relevant to the issues in this case.

1 JUDGE STEINBERG: Well, the same ruling for the same
2 reasons.

3 MR. HONIG: Okay. I have a couple other objections
4 to some of the tabbed material. Tab 2 contains a resolution
5 which apparently was adopted before the license term and thus
6 it's precluded from being introduced.

7 JUDGE STEINBERG: Okay. Adopted you said --

8 MR. HONIG: In 1981.

9 MS. SCHMELTZER: Your Honor, this was operative
10 during the license period.

11 JUDGE STEINBERG: That's my understanding was that
12 this -- that this resolution is still on the books.

13 MR. HONIG: It may well be the case, but they had
14 the burden to make that statement and they did not state that
15 it was operative during that time.

16 MS. SCHMELTZER: It's referenced in the exhibit.

17 MR. HONIG: In the exhibit?

18 MS. SCHMELTZER: Um-hum.

19 JUDGE STEINBERG: Yeah, sure is.

20 MS. SCHMELTZER: It's -- it was adopted in 1981 and
21 it was --

22 JUDGE STEINBERG: Attachment 2 is referred to in
23 paragraph 16.

24 MR. HONIG: Let me find it.

25 MS. SCHMELTZER: And then the next, the next

1 announcement of apartheid was in 1986.

2 JUDGE STEINBERG: Well, I will ask the question
3 then. Reverend Devantier, is resolution 8-07 which is
4 contained in Attachment 2, was that operative during the
5 license term?

6 WITNESS: Yes, it was.

7 MR. HONIG: I also object to Tab 3 which I think
8 goes -- which was adopted during the license term but which,
9 which goes far afield in that one's opposition to apartheid
10 may be based on many grounds other than one's practices --

11 JUDGE STEINBERG: Well, read, read the, read the
12 paragraph -- the resolved paragraph preceding the one on
13 apartheid. Refers to "The evils of racial discrimination." I
14 suspect, Mr. Honig, that if there was a resolution that was
15 appended to, to the church's case that supported racial
16 discrimination and did not announce we support apartheid, that
17 you wouldn't have the same objection. I just think that this
18 -- that, that these resolutions are relevant in, in looking at
19 the background of the church's mission. And this is an
20 organization that's gone on the record so to speak with
21 respect to some of these matters and I think it's fair to look
22 at that. Now, whether that particular -- whether these
23 particular resolutions were lived up to in the operation of
24 the radio station and the hiring practices of the radio
25 station you're free to argue that they were or they weren't.

1 But, but I think this is part of the background of, of the
2 whole matter so the objection is overruled.

3 MR. HONIG: Your Honor, I -- the difficulty --I have
4 to say this and I'll say it with, with the greatest respect.
5 We have rulings on the admissions of some of our witnesses who
6 testified, or would have testified that in their opinion
7 specific practices were discriminatory.

8 JUDGE STEINBERG: Are you talking about the lawyer's
9 -- the professor's opinion?

10 MR. HONIG: The music professor's and, and the
11 lawyer, and --

12 JUDGE STEINBERG: But -- okay, let me just say those
13 rulings were made because the people were not -- it wasn't
14 shown that they were competent to make the statements that
15 they made. I'm not going to reargue those rulings. If you
16 believe that my rulings have been inconsistent you can take
17 exception to those rulings. The reason that I rejected those
18 exhibits of yours are stated on the record and I'm not going
19 to read --- I'm not going to get, get into them now. I didn't
20 think they were proper rebuttal for whatever reasons I said
21 they weren't. Now, now, here we're talking about apples and
22 oranges so let's -- in accordance with my, with my earlier
23 request, let's move onto the next objection. I don't want to
24 argue this for the rest of the afternoon.

25 MR. HONIG: I don't, I don't have any further

1 objections.

2 JUDGE STEINBERG: Ms. Laden?

3 MS. LADEN: We don't have any objections.

4 JUDGE STEINBERG: Church Exhibit No. 7 is received.
5 (Whereupon, the document previously
6 identified as Church Exhibit No. 7
7 was received into evidence.)

8 JUDGE STEINBERG: I'm waiting for Mrs. Schmeltzer to
9 say the major words.

10 MS. SCHMELTZER: The witness is available for cross-
11 examination.

12 MR. HONIG: Thank you.

13 JUDGE STEINBERG: Mr. Honig?

14 CROSS-EXAMINATION

15 BY MR. HONIG:

16 Q Reverend Devantier, would you please turn to
17 page 2 of your testimony? There at the last sentence of
18 paragraph 3 you state, "Stations have had a spotless record
19 with the FCC since commencing operation." What is the basis
20 for your having made that statement?

21 A I have been associated with KFUD in an official
22 capacity since 1972, was aware that before that time -- I've
23 been associated with KFUD since 1972 in an official capacity
24 --

25 JUDGE STEINBERG: Let me just -- let's go off the

1 record. Turn that thing off, please. Do you know how to do
2 that? There's something there that says "Off."

3 (Whereupon, off the record.)

4 (Whereupon, on the record.)

5 JUDGE STEINBERG: While we were off the record, this
6 air conditioner -- this blower that's been interfering with
7 our hearing all week -- our hearing, our hearing all week has
8 been turned off so it's going to get hot in here so just make
9 yourselves comfortable. Why don't you restate -- the question
10 was, Reverend Devantier's basis for making the statement that
11 the station had a spotless record.

12 MR. HONIG: That's right.

13 JUDGE STEINBERG: Okay, and why don't you start your
14 answer again, please?

15 WITNESS: I have personally been involved with KFUD
16 since 1972, was aware of its ministry and activity prior to
17 that time, have been throughout those years a student of the
18 history of KFUD and to my personal knowledge, I am not aware
19 of any problems the station has had throughout its history
20 with the FCC. I recall when this exhibit was put together
21 discussing that particular issue with the attorneys and asking
22 if the record would verify this and was assured that the
23 official record would.

24 BY MR. HONIG:

25 Q You, you were assured that?

1 A Yes.

2 Q By, by whom?

3 A By the attorneys. By Mrs. Schmeltzer and Mr.
4 Gottfried.

5 MR. HONIG: Your Honor, I'd like to renew my motion
6 to strike the --

7 JUDGE STEINBERG: Denied. We've got the basis for
8 the question. He said from his personal knowledge the station
9 has never been in trouble with the FCC and that was confirmed
10 by his attorneys. He had personal knowledge and he has made
11 the statement. Your objection -- your request to review the
12 objection is denied, or to -- for me to reconsider my earlier
13 ruling is denied. Again, you saw this sentence on
14 June 1st and you had till June 17th to rebut it and you
15 didn't. The burden shifted to you on June 1st. No more
16 argument. Next question.

17 MR. HONIG: Excuse me for -- can we can go off the
18 record for two or three minutes?

19 JUDGE STEINBERG: Yes.

20 (Whereupon, off the record.)

21 (Whereupon, on the record.)

22 BY MR. HONIG:

23 Q On page 6 of your testimony, paragraph 10, there at
24 the end you state "Such individuals have been willing to work
25 full time and part time for relatively low salaries that these

1 church stations have been able to pay." What do you mean by
2 the word "relatively"?

3 A That to the best of my knowledge, the salaries that
4 we offered to seminary students and to others was below what
5 other radio stations in the market were paying for similar
6 work.

7 Q Do you know what other radio stations in the market
8 were paying for similar work?

9 A Prior to my graduation from the seminary, I worked
10 for a number commercial radio stations including a radio
11 station in St. Louis.

12 Q What year was that?

13 A From 1968 to 1972, the years --

14 Q Do you have any --

15 A -- that I was at the seminary.

16 Q I'm sorry. Do you have any other basis for your
17 knowledge of the, the going salary rates in St. Louis for
18 similar positions?

19 A It has been my experience that, that employees
20 themselves often have knowledge of what others are paying for
21 similar work and from time to time remind management of that.

22 Q You're familiar with the radio business. Do you
23 know a station where that doesn't happen?

24 MS. SCHMELTZER: Objection. Speculative.

25 JUDGE STEINBERG: Overruled. Okay. Where that

1 doesn't happen, I interpret that to mean where employees --

2 MR. HONIG: Where employees don't --

3 JUDGE STEINBERG: -- don't gripe about their
4 salaries.

5 MR. HONIG: -- think they get paid enough. Right.

6 JUDGE STEINBERG: It's even been known that well-
7 paid federal employees have griped about their salaries, but
8 that's -- we're not in the radio business, I mean they're not
9 in the radio business.

10 MS. SCHMELTZER: And I also object that it's
11 irrelevant.

12 JUDGE STEINBERG: It's overruled.

13 WITNESS: Could you repeat the question, please?

14 BY MR. HONIG:

15 Q Do you know of a radio station where employees don't
16 complain about their salaries being too low?

17 A I guess I, I couldn't say that I'm familiar enough
18 with all radio stations to be able to comment on that with
19 complete certainty.

20 Q Okay. If you would turn to page 10 of your
21 testimony. There in subpart B of paragraph 18, you state
22 regarding Arnold & Porter, "I believe that I would hear
23 directly from the firm if FCC rules and policies changed in a
24 way which would have required dramatic changes in our EEO
25 program." What was that belief based upon?

1 A My previous closer association with Arnold & Porter
2 from those years when I served as general manager of the radio
3 stations and had some regular contact with Arnold & Porter.

4 JUDGE STEINBERG: Was -- let me -- was that -- when
5 you were, when you were dealing more directly with the
6 stations and Arnold & Porter was representing the stations,
7 was it their practice if something -- if, if some FCC rule or
8 policy had an effect on the station that they would, that they
9 would let you know?

10 WITNESS: I recall conversations with, with counsel
11 at Arnold & Porter, telephone and written correspondence,
12 during my years as general manager and conversations with them
13 about changes in FCC rules and regulations.

14 BY MR. HONIG:

15 Q Now, during the license term to what extent did KFUD
16 keep Arnold & Porter apprised of its own EEO programs,
17 policies and procedures?

18 A I do not have specific information on that.

19 Q Did you undertake during the license term to ensure
20 that KFUD management kept Arnold & Porter apprised of the
21 stations' EEO policies, programs and practices?

22 A I trusted those individuals in positions of
23 responsibility at the station to do what was appropriate.

24 Q Now, when you say you trusted, did you instruct them
25 specifically to keep Arnold & Porter apprised of the stations'

1 EEO programs, policies and practices?

2 A I do not recall that specific instruction.

3 Q On the same page, subpart E of paragraph 18, you
4 state "No past or present employee or job applicant complained
5 that the stations discriminated against him or her on the
6 grounds of race or religion." Was it KFUD's practice during
7 the license term to inform applicants who were rejected for
8 employment of the reasons for those rejections?

9 MS. SCHMELTZER: Objection. There's -- this is not
10 relevant to the particular issues in this proceeding.

11 JUDGE STEINBERG: Is this a foundation question?

12 MR. HONIG: Yes.

13 JUDGE STEINBERG: Overruled. Let's see where it's
14 going.

15 WITNESS: I'm not -- I don't have that information.
16 I don't know whether the station did or did not.

17 BY MR. HONIG:

18 Q Were you involved yourself in making decisions on
19 the -- as to whether to hire or not hire any particular
20 persons during the license term?

21 A Yes, I was.

22 Q Okay, and what categories or types of positions had
23 to be presented to you for approval and did you then have to
24 approve?

25 A General managers for the two stations, director of

1 broadcast ministry and perhaps program directors.

2 Q Now, did you interview those candidates for those
3 positions yourself?

4 A Some of them I did, yes.

5 Q Now, when letters went out to -- well, when, when
6 the decision was made to hire a particular person for one of
7 those positions, did -- was that information communicated to
8 the selectee in writing?

9 A That they were selected or --

10 Q That, that they were selected.

11 A To the best of my recollection, yes.

12 Q And were the persons who were not selected notified
13 in writing of their nonselection?

14 MS. SCHMELTZER: Objection. Your Honor has
15 previously ruled that termination or -- was not relevant.
16 This isn't even termination. This is nonselection. I just
17 don't see it as relevant to the issues.

18 JUDGE STEINBERG: Okay. I think what Mr. Honig is
19 doing is laying a foundation for further questions on
20 paragraph E.

21 MR. HONIG: That's right.

22 JUDGE STEINBERG: Have I read your mind?

23 MR. HONIG: Exactly.

24 JUDGE STEINBERG: Overruled. Let's see -- this is
25 -- yeah. He's trying to get some place so that he can ask

1 questions on paragraph E and I think that's, that's -- we'll,
2 we'll let you get there if you can.

3 MS. SCHMELTZER: But, but there is no -- there has
4 been no evidence at all in this case that anyone complained.

5 JUDGE STEINBERG: Well, he's testing him.

6 BY MR. HONIG:

7 Q Okay. Were let's call the nonselectees notified in
8 writing of the nonselection?

9 A To the best of my recollection, at least those who
10 were interviewed were notified by letter that they had not
11 been selected.

12 Q Okay, and did those letters state the reasons for
13 the nonselection?

14 A I do not recall.

15 Q Were those letters signed by you?

16 A Some of them were, yes.

17 Q Do you recall -- thinking just of the letters signed
18 by you, do you recall one such letter that stated to the
19 nonselectee the reason for their nonselection?

20 MS. SCHMELTZER: Objection, Your Honor. Relevance.
21 I, I'm not aware of any requirement that you have to advise a
22 nonselectee of a reason why they're not being selected.

23 JUDGE STEINBERG: Okay. Overruled. I think we're
24 still in foundation.

25 WITNESS: No, I do not recall any such letter.

1 BY MR. HONIG:

2 Q Okay. Reverend Devantier, you have seen in
3 preparing for this case several letters written from Arnold &
4 Porter to officials at the station, Mr. Stortz, Reverend
5 Abatie, Mr. Wilde and others, have you not? And you are
6 familiar with that -- those letters?

7 A Yes.

8 Q Okay. During the license term were any of those
9 letters routed to you?

10 A For the most part they were not, but I do recall
11 seeing and discussing several of them with employees.

12 Q With whom did you discuss those letters?

13 JUDGE STEINBERG: Can we -- I'm afraid here that
14 we're speaking in, in two general a terms. The way I
15 understood the testimony, he saw some letters --

16 MR. HONIG: Yeah.

17 JUDGE STEINBERG: -- and he discussed some letters.

18 MR. HONIG: Actually, I don't think --

19 JUDGE STEINBERG: Would it -- did, did --

20 MR. HONIG: I want to --

21 JUDGE STEINBERG: -- you discuss -- okay, you were
22 about to say something. I'm sorry I interrupted.

23 MR. HONIG: I'm, I'm going to withdraw the question.
24 It strikes me that it's of minimal value. I'm just not going
25 to ask it.

1 BY MR. HONIG:

2 Q There was testimony this morning which I believe you
3 heard involving -- where -- when Mr. Stortz testified that on
4 occasion secretaries were involved in scheduling pastors as
5 speakers. Do you recall that testimony?

6 A Yes, I do.

7 Q And do you recall any occasion during the license
8 term when a secretary made the decision to schedule you as a
9 speaker?

10 A Except for a prerecorded syndicated program that I
11 have done for many years, I have not accepted invitations to
12 speak as a pastor on KFUD so I would not have been asked.

13 Q Okay. You also heard testimony by Mr. Stortz
14 yesterday afternoon to the effect that after Mr. Lauher was
15 terminated as general manager and until Bob Thompson became
16 the acting general manager, that the EEO functions at the
17 station KFUD-FM were shared between Mr. Stortz and yourself.
18 Do you recall that testimony?

19 A Yes.

20 Q And what -- when, when that -- whose idea was it to
21 have those EEO functions shared during that time period in
22 1989 between yourself and Mr. Stortz?

23 A It was probably most a function of the staff
24 organization. That is, in the absence of a general manager or
25 the absence of the director of broadcast ministries I would

1 assume some responsibility, the, the buck as it were stopped
2 with me and in that period of time there was a vacancy
3 actually depending on which period of time we're talking
4 about, there were vacancies in all of those positions.

5 Q Now, speaking just about the FM station from the
6 time when Mr. Lauher was fired to when Mr. Thompson became
7 acting general manager, what part of the shared EEO
8 responsibilities as apportioned between you and Mr. Stortz was
9 it your responsibility as opposed to Mr. Stortz's to fulfill?

10 A I don't recall what kind of activity was going on
11 during that period of time if in fact we were looking to fill
12 positions other than those we've identified as having been
13 vacant at the time, and I don't recall specifically how we
14 divided the activity. But normally, the, the relationship was
15 such that the routine day-to-day responsibilities of the
16 operation of the radio station were assigned to people on-site
17 and in this case that would have been Dennis Stortz and I did
18 not become heavily involved in the day-to-day functioning and
19 detail of the operation.

20 Q And that would have included for example sending out
21 notices of job openings, notifying job sources of the
22 station's EEO policies, for example?

23 A That's correct.

24 Q Okay. You have heard testimony from Mr. Stortz
25 regarding classical music expertise and the extent to which it

1 was either required or desirable for some of the positions at
2 KFUE-FM. Speaking just of salespersons, in the early years of
3 the license term, let's say 1983 to 1986, was it your
4 understanding that levels of classical music expertise or
5 knowledge or exposure which could not be acquired on the job
6 were required for sales positions?

7 MS. SCHMELTZER: Objection. There weren't any sales
8 positions in the early years of the license period.

9 JUDGE STEINBERG: Didn't go commercial until later.

10 MR. HONIG: Until --

11 MS. SCHMELTZER: No, it went commercial in '83 but
12 concert music --

13 JUDGE STEINBERG: But concert music, okay --

14 MS. SCHMELTZER: -- broadcasters --

15 MR. HONIG: That's right. Okay.

16 JUDGE STEINBERG: I, I don't have any problem with
17 you asking the question if you, if you firm up the time
18 period.

19 BY MR. HONIG:

20 Q Okay. Then what I'll, then what I'll do and I'll
21 ask the witness to answer expansively, from 1986 through the
22 end of the license term, or at any periods between then, for
23 any time in that period, was it your understanding at the time
24 that there were -- that, that classical-related requirements
25 which could not be learned on the job applied to FM sales

1 positions?

2 A It's my understanding that during that period of
3 time knowledge of classical music was a desirable
4 characteristic and trait in an application for a sales
5 position and provided everything else was equal, the station
6 would select an individual with that knowledge and experience
7 and/or background.

8 Q Now, could that knowledge and expertise have been
9 acquired on the job?

10 MS. SCHMELTZER: Objection. Speculative.

11 JUDGE STEINBERG: Sustained.

12 BY MR. HONIG:

13 Q Do you know --

14 MR. HONIG: Can we go off the record for a minute,
15 Your Honor?

16 (Whereupon, off the record.)

17 (Whereupon, on the record.)

18 JUDGE STEINBERG: On the record.

19 BY MR. HONIG:

20 Q Reverend Devantier, were the types of classical
21 skills or background which an FM salesperson needed capable of
22 being learned on the job?

23 A Over a period of time I'm sure that an individual
24 can acquire a working knowledge of classical music, yes.

25 Q And what is the period of time that a person would

1 need to acquire that knowledge and expertise sufficient to
2 satisfy the FM sales job requirements of the station?

3 A I can't answer that. I really don't know.

4 Q Okay.

5 JUDGE STEINBERG: Would it depend on the
6 capabilities of the individual?

7 WITNESS: Depend on the starting point for the
8 individual, the capabilities --

9 JUDGE STEINBERG: Interest?

10 WITNESS: -- and the kind of mentors that they would
11 have at the station.

12 BY MR. HONIG:

13 Q Reverend Devantier, do you have any knowledge of any
14 African-American person who applied for a job at KFUD AM or FM
15 during the license term other than to be a secretary or
16 janitor?

17 A African-American?

18 Q Yes.

19 A I did not personally have contact or knowledge of
20 any such person.

21 Q Was there a person during the license term at the
22 stations for whom part of his or her job responsibilities was
23 to take note of the presence or absence of minority applicants
24 for employment?

25 A My recollection is that perhaps several position

1 descriptions included reference to compliance with FCC rules
2 and regulations. General managers had the responsibility,
3 director of broadcast ministry, to the best of my
4 recollection, and operations manager I believe also had some
5 responsibilities in the area of compliance. So, it was part
6 of the assigned task.

7 MR. HONIG: Your Honor, may I approach the witness
8 with a page of his deposition?

9 JUDGE STEINBERG: Is, is it to refresh his memory?

10 MR. HONIG: Yes.

11 JUDGE STEINBERG: Okay.

12 MS. SCHMELTZER: Well, could you identify the page,
13 please?

14 JUDGE STEINBERG: Yeah, please do that.

15 MR. HONIG: Page 69 of your deposition, and I'm
16 referring you specifically to lines -- for questions and
17 answers that appear on line 21 through 24 of that page.

18 JUDGE STEINBERG: Read those to yourselves
19 please -- to yourself, please. I don't want to read it.

20 BY MR. HONIG:

21 Q Now, did that refresh your recollection as to, as to
22 whether it was the job responsibility of any person to take
23 note of the presence or absence of minority applicants for
24 employment?

25 A If you're asking whether that particular assignment